

STATUS OF THE CLAIMS

Claims 1-24 were originally filed in the patent application. In response to the first office action dated 02/28/2007, an amendment was filed on 05/29/2007 that cancelled claims 3, 9, 15-16, 18, and 20-21 and amended claims 1, 4, 8, 10, 14, and 19. In the pending final office action dated 08/24/2007, claims 1-2, 4-5, 8, 10-11, 14, 17, 19 and 22 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1, 4, 8, 10, 14 and 19 were rejected on the ground of nonstatutory obviousness-type double patenting. Claims 1-2, 4-8, 10-14, 17, 19 and 22-24 were rejected under 35 U.S.C. §112, second paragraph. Claims 1-2, 4, 6, 12, 14, 17, 19 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0194089 to McCarthy in view of U.S. Patent Application Publication No. 2003/0135580 to Camble *et al.* (hereinafter “Camble”). Claims 5, 7-8, 10-11, 13, 22 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over McCarthy in view of Camble and further in view of U.S. Patent No. 7,146,492 to Circenis et al. (hereinafter “Circenis”). No claim was allowed. In this amendment, claims 1-2, 6-8, 12-14, 17, and 23-24 have been cancelled and claims 4, 10 and 19 have been amended. Claims 4-5, 10-11, 19 and 22 are currently pending.

REMARKS

Rejection of claims 1-2, 4-5, 8, 10-11, 14, 17, 19 and 22 under 35 U.S.C. §101

The examiner rejected claims 1-5, 8-11 and 14-22 under 35 U.S.C. §101 as being directed to nonstatutory subject matter. Claims 1-2, 8, 14 and 17 have been cancelled herein, and therefore need not be addressed. All of the independent claims, namely claims 4, 10 and 19, have been amended herein to recite recovering the at least one temporary resource when the specified resource-time has expired. Applicants respectfully assert recovering the at least one temporary resource when the specified resource-time has expired is a useful, concrete and tangible result. As a result, the pending claims recite statutory subject matter under 35 U.S.C. §101.

Rejection of claims 1, 4, 8, 10, 14 and 19 under obviousness-type double patenting

The examiner rejected claims 1, 4, 8, 10, 14 and 19 under obviousness-type double patenting based on co-pending patent application serial no. 10/616,676. This cited patent application has the same filing date as the subject patent application. As a result, there is no issue under obviousness-type double patenting because both of these patents, if and when issued, will have the same term, namely 20 years from the date of filing. As a result, no terminal disclaimer is required, and applicants respectfully request reconsideration of the examiner's rejection of claims 1, 4, 8, 10, 14 and 19.

The examiner maintained the rejection of these claims even though applicants pointed out in the last response the co-pending patent application has the same filing date. Should the examiner maintain this rejection, applicants respectfully request the examiner explain why the rejection should be maintained in light of the fact that both the co-pending application and this application have the same filing date.

Rejection of claims 1-2, 4-8, 10-14, 17, 19 and 22-24 under 35 U.S.C. §112

The examiner rejected claims 1-2, 4-8, 10-14, 17, 19 and 22-24 under 35 U.S.C. §112, second paragraph. Claims 1-2, 6-8, 12-14, 17 and 23-24 have been cancelled herein, and therefore need not be addressed. The remaining claims in this group, namely claims 4-5, 10-11, 19 and 22 have been amended herein to specifically define the minimum resource specification. As a result, claims 4-5, 10-11, 19 and 22 are not indefinite under 35 U.S.C. §112, second paragraph, and applicants respectfully request reconsideration of the examiner's rejection of these claims.

Rejection of claims 1-2, 4, 6, 12, 14, 17, 19 and 23 under 35 U.S.C. §103(a)

The examiner rejected claims 1-2, 4, 6, 12, 14, 17, 19 and 23 under 35 U.S.C. §103(a) as being unpatentable over McCarthy in view of Camble. Claims 1-2, 6, 12, 14, 17 and 23 have been cancelled herein, and therefore need not be addressed. The remaining claims in this group, namely claims 4 and 19, have been amended herein to include limitations from former dependent claims and to specifically define what a minimum resource specification is. The cited art fails to teach the unique combination of features in claims 4 and 19 as amended. As a result, claims 4 and 19 are allowable over the combination of McCarthy and Camble.

Rejection of claims 5, 7-8, 10-11, 13, 22 and 24 were rejected under 35 U.S.C. §103(a)

The examiner rejected claims 5, 7-8, 10-11, 13, 22 and 24 under 35 U.S.C. §103(a) as being unpatentable over McCarthy in view of Camble and further in view of Circenis. Claims 7-8, 13 and 24 have been cancelled herein, and therefore need not be addressed. The independent claim in this group, namely claim 10, has been amended herein to include limitations from former dependent claims and to specifically define what a minimum resource specification is. The cited art fails to teach the unique combination of features in claim 10 as amended. The remaining claims in this group,

namely claims 5, 11 and 22, each depend on an independent claim that is allowable for the reasons given above. As a result, claims 5, 11 and 22 are allowable as depending on allowable independent claims.

Conclusion

In summary, none of the cited prior art, either alone or in combination, teach, support, or suggest the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

By /derekpmartin/
Derek P. Martin
Reg. No. 36,595

MARTIN & ASSOCIATES, L.L.C.
P.O. Box 548
Carthage, MO 64836-0548
(417) 358-4700